



# Manistee County Board of Commissioners

Manistee County Courthouse • 415 Third Street • Manistee, Michigan 49660

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VICE-CHAIRPERSON  
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Glenn Lottie  
Carl Rutske

**CLERK**

Marilyn Kliber  
(231) 723-3331

**CONTROLLER/ADMINISTRATOR**

Thomas Kaminski  
(231) 398-3500

**DRAFT**

## **PUBLIC SAFETY COMMITTEE**

Friday, August 1, 2008  
9:00 A.M.

Courthouse & Government Center  
Board of Commissioner's Room

### **MINUTES**

**Members Present:** Edward Haik, Chairperson, Allan O'Shea and Carl Rutske

**Others Present:** Thomas Kaminski, County Controller/Administrator; Dale Kowalkowski, Sheriff; Kenneth Falk, Emergency Management Coordinator; Todd Harland, Manistee County Landfill; Bruce Schimke, Maintenance Supervisor; and Karen Molby, Personnel Officer/Administrative Assistant

The meeting was called to order at 9:00 A.M.

### **ITEMS REQUIRING BOARD ACTION**

### **ITEMS NOT REQUIRING BOARD ACTION**

Mr. Harland updated the Committee on the progress of odor improvement projects taking place at the Manistee County Landfill. He stated that they are slightly behind schedule due to the effects of the recent storm, however, anticipate completion of the project by the end of September. He stated that there should be a noticeable difference when this project is done.

Sheriff Kowalkowski provided the Committee with an explanation for several of the budget requests he has made in the FY 2008-09 budget because he will not be available to attend the County Board Budget Study Session on August 11, 2008. He explained that he is requesting an additional \$50,000 to continue to address Courthouse/Government Center security issues. He stated he is researching the possibility of subcontracting

these services with a security firm. Subcontract staff would have no benefits, be part-time and cover approximately 60-80 hours per week. They would not be in uniform and would have no police authority. He explained that his budget request includes a second Animal Control Officer, however, he has done further research since that request was submitted. It appears that the current Animal Control Officer spends approximately 50% of his time performing paperwork duties which may be able to be accomplished by a secretarial position. He stated the County Treasurer has also suggested some possible software that is available which would allow the Treasurer's Office to perform some of these tasks at the time of dog license sales. He has also requested an additional amount of approximately \$32,000 to cover those times when the State Police has only one patrol vehicle on the road or no patrol vehicles available. Pursuant to Michigan Law, it is the duty of the Sheriff and he is obligated to have patrol available to answer complaints in the absence of Township and Village police departments. He stated a good example of this was during the most recent storm. The State Police went to Mason County to assist in that situation and the Sheriff's Office covered during that time.

The Sheriff advised that he has submitted the State Aid Voucher for the Snowmobile Program. He reported that the entire cost for the 2007-08 winter season equaled \$41,993.00 and the State is reimbursing the County \$35,694.00. He also advised that the SSCENT Program will be partially funded by forfeiture funds.

Mr. Falk reported that he is in the process of dealing with FEMA to apply for disaster relief reimbursement funds in connection to the recent storm. He stated that he is working with several staff members to collect all of the pertinent data and compile the necessary reports. The total cost will be reimbursed to the County by FEMA at 75%, the State at 12.5%, and the County is responsible for the remaining 12.5%.

The Committee was provided with a copy of Public Act 240 ORV/ATV Legislation and briefly discussed the same. There was a consensus of the Committee to table this matter at this time and that the same be discussed by the Public Safety Committee after January 2009 when the new Board is in place. (APPENDIX A)

There was a brief discussion regarding the Jail Meal Contract. Sheriff Kowalkowski explained that Robert Lancaster, Jail Administrator, is in the process of renegotiating with West Shore Medical Center for this service. Their current proposal would increase the Sheriff's Office budget by approximately \$60,000.00. It was suggested that Lt. Lancaster also contact the Manistee County Medical Care Facility, Manistee Area Public Schools, and any other available resources to obtain quotes.

There was a brief discussion regarding the Inmate Telephone Contract which expires on September 30, 2008. Mr. Kaminski stated that he will contact the Jail Administrator and assist him with this process.

The Committee discussed Capital Improvement needs at the Jail and reviewed a quote from Simplex Grinnel for a Life Safety Security System upgrade to the door system at a total cost of \$214,350.00. Mr. Kaminski provided a list of the Jail's needs, along with possible funding sources to accomplish each item. The Jail lock replacement requires a down payment of \$75,000.00 and could be financed over a period of 36, 48 or 60 months. He stated that this project could actually be started this year with the \$75,000.00 down payment being paid from the Capital Improvement Fund. After lengthy discussion and review of the funding sources, there was consensus of the Committee to proceed with the Jail projects as recommended, especially replacement of the emergency generator and electrical system and the Jail security system upgrade. Mr. Kaminski stated that he will contact the USDA, Revenue Sharing Board, MMRMA, 9-1-1, and other possible funding sources and report to the Committee at their next meeting. (APPENDIX B)

The meeting adjourned at 10:35 A.M.

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Edward Haik, Chairperson

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Allan O'Shea, Commissioner

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Carl Rutske, Commissioner

Act No. 240

Public Acts of 2008

(APPENDIX A-1)

Approved by the Governor

July 17, 2008

Filed with the Secretary of State

July 17, 2008

EFFECTIVE DATE: July 17, 2008

STATE OF MICHIGAN

94TH LEGISLATURE

REGULAR SESSION OF 2008

Introduced by Reps. Sheltroun, Moolenaar, Lindberg, Casperson, Palsrok, Booher, Walker, Elsenheimer, Lahti, Hansen, Moore, Espinoza, Gillard, McDowell, Meekhof, Pavlov, Hammon, Shaffer, Spade, Polidori, Stakoe, Gaffney, Lemmons, Gonzales, Bauer, Brown, Farrah, Cushingberry, Angerer, Ebli, LeBlanc, Hood, Alma Smith, Emmons, Nitz, Huizenga, Pearce, Calley, Ward, Proos, Mayes, Clemente, Ball, Horn and Cheeks

## ENROLLED HOUSE BILL No. 4323

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 81115, 81129, 81131, 81133, and 81147 (MCL324.81115, 324.81129, 324.81131, 324.81133, and 324.81147), section 81115 as amended by 2003 PA 111, section 81129 as amended by 2008 PA 164, section 81131 as added by 1995 PA 58, section 81133 as amended by 1998 PA 86, and section 81147 as amended by 2004 PA 587.

The People of the State of Michigan enact:

Sec. 81115. (1) A person shall not operate an ORV under any of the following conditions unless the ORV is licensed with the department or a dealer as provided under this part:

- (a) Except as otherwise provided by law, on or over land, snow, ice, or other natural terrain.
- (b) Except as otherwise provided in this part, on a forest trail or in a designated area.
- (c) Except as otherwise provided in section 81102, on the maintained portion of a road or street.

(2) Licensure is not required for an ORV used exclusively in a safety and training program as required in section 81129.

Sec. 81129. (1) Subject to subsections (2), (3), (17), and (18), a parent or legal guardian of a child less than 16 years of age shall not permit the child to operate an ORV unless the child is under the direct visual supervision of an adult and the child

has in his or her immediate possession an ORV safety certificate issued pursuant to this part or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(2) Subject to subsection (18), a parent or legal guardian of a child less than 12 years of age shall not permit the child to operate a 4-wheeled ATV, unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(3) A parent or legal guardian of a child less than 16 years of age shall not permit the child to operate a 3-wheeled ATV.

(4) Subject to subsections (5), (6), (17), and (18), the owner or person in charge of an ORV shall not knowingly permit the vehicle to be operated by a child less than 16 years of age unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession an ORV safety certificate issued pursuant to this part or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(5) Subject to subsection (18), the owner or person in charge of a 4-wheeled ATV shall not knowingly permit the vehicle to be operated by a child less than 12 years of age, unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(6) The owner or person in charge of a 3-wheeled ATV shall not knowingly permit the vehicle to be operated by a child less than 16 years of age.

(7) The owner or person in charge of an ORV shall not knowingly permit the vehicle to be operated by a person who is incompetent to operate the vehicle because of mental or physical disability except as provided in section 81131.

(8) The department shall implement a comprehensive ORV information, safety education, and training program that shall include the training of operators and the preparation and dissemination of information and safety advice to the public. The program shall provide for the training of youthful operators and for the issuance of ORV safety certificates to those who successfully complete the training provided under the program and may include separate instruction for each type of ORV.

(9) In implementing a program under subsection (8), the department shall cooperate with private organizations and associations, private and public corporations, the department of education, the department of state, and local governmental units. The department shall consult with ORV and environmental organizations and associations in regard to the subject matter of a training program and performance testing that leads to certification of ORV operators.

(10) The department may designate a person it considers qualified to provide course instruction and to award ORV safety certificates.

(11) The department may promulgate rules to implement subsections (8) to (10) and (18).

(12) Subject to subsections (13), (14), (17), and (18), a child who is less than 16 years of age shall not operate an ORV unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession an ORV safety certificate issued pursuant to this section or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(13) Subject to subsection (18), a child who is less than 12 years of age shall not operate a 4-wheeled ATV, unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(14) A child who is less than 16 years of age shall not operate a 3-wheeled ATV.

(15) Subject to subsection (18), when operating an ORV, a child who is less than 16 years of age shall present the ORV safety certificate to a peace officer upon demand.

(16) Notwithstanding any other provision of this section, an operator who is less than 12 years of age shall not cross a highway or street. An operator who is not less than 12 years of age but less than 16 years of age may cross a highway or street or operate on the right-of-way or shoulder of roads and streets on which ORV use is authorized pursuant to section 81131(2), (3), or (5) if the operator has a valid ORV safety certificate in his or her immediate possession and meets any other requirements under this section for operation of the vehicle.

(17) The requirement of possession or presentation of an ORV safety certificate under this section does not apply until implementation of the program for the vehicle proposed to be operated required by subsection (8).

(18) The requirement that a child possess an ORV safety certificate to operate an ORV, and the requirement that a child who is less than 12 years of age not operate a 4-wheeled ATV unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child, do not apply if all of the following requirements are met:

(a) The child is participating in an organized ORV riding or racing event held on land not owned by this state.

(b) The child's parent or legal guardian has provided the event organizer with written permission for the child to participate in the event.

(c) The event organizer has not less than \$500,000.00 liability insurance coverage for the event.

(d) A physician or physician's assistant licensed or otherwise authorized under part 170 or 175 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084 and 333.17501 to 333.17556, or a paramedic or emergency medical technician licensed under part 209 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979, is present at the site of the event or available on call.

(e) The event is at all times under the direct visual supervision of adult staff of the event organizer and a staff member serves as a flagger to warn ORV riders if another ORV rider is injured or an ORV is inoperable in the ORV operating area.

(f) Fencing or another means of crowd control is used to keep spectators out of the ORV operating area.

(g) If the event is on a closed course, dust is controlled in the ORV operating area and the riding surface in the ORV operating area is otherwise properly prepared.

(h) Three-wheeled ATVs are not used by participants.

(i) Any ATVs used by participants are equipped with a side step bar or comparable safety equipment and with a tether kill switch, and the tether is used by all participants.

(j) Each participant in the event wears a crash helmet approved by the United States department of transportation, a protective long-sleeved shirt or jacket, long pants, boots, and protective gloves.

(k) Any other applicable requirements of this part or rules promulgated under this part are met.

(19) If a child less than 16 years of age participates and is injured in an organized ORV riding or racing event, the organizer of the event shall, within 30 days after the event, submit to the department a report on a form developed by the department. The report shall include all of the following, as applicable:

(a) Whether any participant less than 16 years of age was killed or suffered an injury resulting in transportation to a hospital as a result of an ORV accident at the event.

(b) The age of the child.

(c) Whether the child had been issued an ORV safety certificate under this part or a comparable ORV safety certificate issued

under the authority of another state or a province of Canada.

(d) The type of ORV operated.

(e) A description of the accident and injury.

(20) By December 31 of each year, the department shall submit to the legislature a report that summarizes reports received under subsection (19) during the preceding calendar year. In the report, the department may recommend amendments to this part to improve the safety of children less than 16 years of age participating in organized ORV riding or racing events.

(21) The requirements of this section are in addition to any applicable requirements of section 81131(9).

Sec. 81131. (1) A municipality may pass an ordinance allowing a permanently disabled person to operate an ORV in that municipality.

(2) Subject to subsections (4) and (7), the county board of commissioners of an eligible county may adopt an ordinance authorizing the operation of ORVs on the maintained portion of 1 or more roads located within the county. Not less than 45 days before a public hearing on the ordinance, the county clerk shall send notice of the public hearing, by certified mail, to the county road commission and, if state forestland is located within the county, to the department.

(3) Subject to subsections (4) and (7), beginning 1 year after the effective date of the amendatory act that added this subsection, the township board of a township located in an eligible county may adopt an ordinance authorizing the operation of ORVs on the maintained portion of 1 or more roads located within the township. Not less than 28 days before a public hearing on the ordinance, the township clerk shall send notice of the public hearing, by certified mail, to the county road commission and, if state forestland is located within the township, to the department.

(4) The board of county road commissioners may close a road to the operation of ORVs under subsection (2) or (3) to protect the environment or if the operation of ORVs under subsection (2) or (3) poses a particular and demonstrable threat to public safety. A county road commission shall not under this subsection close more than 30% of the linear miles of roads located within the county to the operation of ORVs under subsection (2) or (3). The township board of a township located in an eligible county may adopt an ordinance to close a road to the operation of ORVs under subsection(2).

(5) Subject to subsection (7), the legislative body of a municipality located in an eligible county may adopt an ordinance authorizing the operation of ORVs on the maintained portion of 1 or more streets within the municipality.

(6) Subject to subsections (4) and (7), if a local unit of government adopts an ordinance pursuant to subsection (2), (3), or (5), a person may operate an ORV with the flow of traffic on the far right of the maintained portion of the road or street covered by the ordinance. A person shall not operate an ORV pursuant to subsection (2), (3), or (5) at a speed greater than 25 miles per hour or a lower posted ORV speed limit or in a manner that interferes with traffic on the road or street. Unless the person possesses a license as defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL257.25, a person shall not operate an ORV pursuant to subsection (2), (3), or (5) if the ORV is registered as a motor vehicle under chapter II of the Michigan vehicle code, 1949 PA 300, MCL 257.201 to 257.259, and either is more than 60 inches wide or has 3 wheels. ORVs operated pursuant to subsection (2), (3), or (5) shall travel single file, except that an ORV may travel abreast of another ORV when it is overtaking and passing, or being overtaken and passed by, another ORV.

(7) Subsections (2) to (6) and an ordinance adopted under subsection (2), (3), or (5) do not apply beginning 5 years after the effective date of the amendatory act that added this subsection.

(8) In addition to any applicable requirement of section 81133(c), a person shall not operate an ORV pursuant to this section when visibility is substantially reduced due to weather conditions without displaying a lighted headlight and lighted taillight. Beginning January 1, 2010, a person shall not operate an ORV pursuant to this section without displaying a lighted headlight and lighted taillight.

(9) A person under 18 years of age shall not operate an ORV pursuant to this section unless the person is in possession of a valid driver license or under the direct supervision of a parent or guardian and the person has in his or her immediate



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possession an ORV safety certificate issued pursuant to this part or a comparable ORV safety certificate issued under the authority of another state or a province of Canada. A person under 12 years of age shall not operate an ORV pursuant to this section. The requirements of this subsection are in addition to any applicable requirements of section 81129.

(10) A township that has authorized the operation of ORVs on a road under subsection (3) does not have a duty to maintain the road in a condition reasonably safe and convenient for the operation of ORVs. A board of county road commissioners, a county board of commissioners, or a municipality does not have a duty to maintain a road or street under its jurisdiction in a condition reasonably safe and convenient for the operation of ORVs, except the following ORVs:

(a) ORVs registered as motor vehicles as provided in the code.

(b) ORVs permitted by an ordinance as provided in subsection (1).

(11) Beginning October 19, 1993, a board of county road commissioners, a county board of commissioners, and a county are, and, beginning on April 25, 1995, a municipality is, immune from tort liability for injuries or damages sustained by any person arising in any way out of the operation or use of an ORV on maintained or unmaintained roads, streets, shoulders, and rights-of-way over which the board of county road commissioners, the county board of commissioners, or the municipality has jurisdiction. The immunity provided by this subsection does not apply to actions that constitute gross negligence. As used in this subsection, "gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

(12) In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a road or street pursuant to the code was in a collision with an ORV required to be operated on the far right of the maintained portion of a road or street pursuant to an ordinance adopted under subsection (2), (3), or (5), the operator of the ORV shall be considered prima facie negligent.

(13) A violation of an ordinance described in this section is a municipal civil infraction. The ordinance may provide for a maximum fine of not more than \$500.00 for a violation of the ordinance. In addition, the court shall order the defendant to pay the cost of repairing any damage to the environment, a road or street, or public property damaged as a result of the violation.

(14) The treasurer of the local unit of government shall deposit fines collected by that local unit of government under section 8379 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8379, and subsection (13) and damages collected under subsection (13) into a fund to be designated as the "ORV fund". The legislative body of the local unit of government shall appropriate revenue in the ORV fund as follows:

(a) Fifty percent to the county sheriff or police department responsible for law enforcement in the local unit of government for ORV enforcement and training.

(b) Fifty percent to the board of county road commissioners or, in the case of a city or village, to the department responsible for street maintenance in the city or village, for repairing damage to roads or streets and the environment that may have been caused by ORVs and for posting signs indicating ORV speed limits or indicating whether roads or streets are open or closed to the operation of ORVs under this section.

(15) As used in this section:

(a) "Eligible county" means Mason, Lake, Osceola, Clare, Gladwin, Arenac, or Bay county or a county lying north thereof, including all of the counties of the Upper Peninsula.

(b) "Local unit of government" means a county, township, or municipality.

(c) "Municipality" means a city or village.

(d) "Road" means a county primary road or county local road as described in section 5 of 1951 PA 51, MCL 247.655.



(e) "Street" means a city or village major street or city or village local street as described in section 9 of 1951 PA51, MCL 247.659.

Sec. 81133. A person shall not operate an ORV:

(a) At a rate of speed greater than is reasonable and proper, or in a careless manner having due regard for conditions then existing.

(b) Unless the person and any passenger in or on the vehicle is wearing on his or her head a crash helmet and protective eyewear approved by the United States department of transportation. This subdivision does not apply if the vehicle is equipped with a roof that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened safety belt.

(c) During the hours of 1/2 hour after sunset to 1/2 hour before sunrise without displaying a lighted headlight and lighted taillight. The requirements of this subdivision are in addition to any applicable requirements of section 81131(8).

(d) Unless equipped with a braking system that may be operated by hand or foot, capable of producing deceleration at 14 feet per second on level ground at a speed of 20 miles per hour; a brake light, brighter than the taillight, visible when the brake is activated to the rear of the vehicle when the vehicle is operated during the hours of 1/2 hour after sunset and 1/2 hour before sunrise; and a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.

(e) In a state game area or state park or recreation area, except on roads, trails, or areas designated for this purpose; on state owned lands under the control of the department other than game areas, state parks, or recreational areas where the operation would be in violation of rules promulgated by the department; in a forest nursery or planting area; on public lands posted or reasonably identifiable as an area of forest reproduction, and when growing stock may be damaged; in a dedicated natural area of the department; or in any area in such a manner as to create an erosive condition, or to injure, damage, or destroy trees or growing crops. However, the department may permit an owner and guests of the owner to use an ORV within the boundaries of a state forest in order to access the owner's property.

(f) On the frozen surface of public waters within 100 feet of a person not in or upon a vehicle, or within 100 feet of a fishing shanty or shelter or an area that is cleared of snow for skating purposes, except at the minimum speed required to maintain controlled forward movement of the vehicle, or as may be authorized by permit in special events.

(g) Unless the vehicle is equipped with a spark arrester type United States forest service approved muffler, in good working order and in constant operation. Exhaust noise emission shall not exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January 1, 1986, when the vehicle is under full throttle, traveling in second gear, and measured 50 feet at right angles from the vehicle path with a sound level meter that meets the requirement of ANSI S1.4 1983, using procedure and ancillary equipment therein described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after January 1, 1986, or that level comparable to the current sound level as provided for by the United States environmental protection agency when tested according to the provisions of the current SAE J1287, June 86 test procedure for exhaust levels of stationary motorcycles, using sound level meters and ancillary equipment therein described. A vehicle subject to this part, manufactured or assembled after December 31, 1972 and used, sold, or offered for sale in this state, shall conform to the noise emission levels established by the United States environmental protection agency under the noise control act of 1972, 42 USC 4901 to 4918.

(h) Within 100 feet of a dwelling at a speed greater than the minimum required to maintain controlled forward movement of the vehicle, except on property owned or under the operator's control or on which the operator is an invited guest, or on a roadway, forest road, or forest trail maintained by or under the jurisdiction of the department, or on a road or street on which ORV use is authorized pursuant to section 81131(2), (3), or (5).

(i) In or upon the lands of another without the written consent of the owner, the owner's agent, or a lessee, when required by part 731. The operator of the vehicle is liable for damage to private property, including, but not limited to, damage to trees, shrubs, or growing crops, injury to other living creatures, or damage caused through vehicle operation in a manner so as to create erosive or other ecological damage. The owner of the private property may recover from the person responsible nominal damages of not less than the amount of damage or injury. Failure to post private property or fence or otherwise enclose in a manner to exclude intruders or of the private property owner or other authorized person to personally

communicate against trespass does not imply consent to ORV use.

(j) In an area on which public hunting is permitted during the regular November firearm deer season from 7 a.m. to 11 a.m. and from 2 p.m. to 5 p.m., except during an emergency or for law enforcement purposes, to go to and from a permanent residence or a hunting camp otherwise inaccessible by a conventional wheeled vehicle, to remove from public land a deer, elk, or bear that has been taken under a valid license; except for the conduct of necessary work functions involving land and timber survey, communication and transmission line patrol, and timber harvest operations; or except on property owned or under control of the operator or on which the operator is an invited guest. A hunter removing game pursuant to this subdivision may leave the designated trail or forest road only to retrieve the game and shall not exceed 5 miles per hour. A vehicle registered under the code is exempt from this subdivision while operating on a public highway or public or private road capable of sustaining automobile traffic. A person holding a valid permit to hunt from a standing vehicle issued pursuant to part 401, or a person with disabilities using an ORV to access public lands for purposes of hunting or fishing through use of a designated trail or forest road, is exempt from this subdivision.

(k) While transporting on the vehicle a bow unless unstrung or encased, or a firearm unless unloaded and securely encased, or equipped with and made inoperative by a manufactured keylocked trigger housing mechanism.

(l) On or across a cemetery or burial ground, or land used as an airport.

(m) Within 100 feet of a slide, ski, or skating area, unless the vehicle is being used for the purpose of servicing the area or is being operated pursuant to section 81131(2), (3), or (5).

(n) On an operating or nonabandoned railroad or railroad right-of-way, or public utility right-of-way, other than for the purpose of crossing at a clearly established site intended for vehicular traffic, except railroad, public utility, or law enforcement personnel while in performance of their duties, and except if the right-of-way is designated as provided for in section 81127.

(o) In or upon the waters of any stream, river, bog, wetland, swamp, marsh, or quagmire except over a bridge, culvert, or similar structure.

(p) To hunt, pursue, worry, kill, or attempt to hunt, pursue, worry, or kill an animal, whether wild or domesticated.

(q) In a manner so as to leave behind litter or other debris.

(r) In a manner contrary to operating regulations on public lands.

(s) While transporting or possessing, in or on the vehicle, alcoholic liquor in a container that is open or uncapped or upon which the seal is broken, except under either of the following circumstances:

(i) The container is in a trunk or compartment separate from the passenger compartment of the vehicle.

(ii) If the vehicle does not have a trunk or compartment separate from the passenger compartment, the container is encased or enclosed.

(t) While transporting any passenger in or upon an ORV unless the manufacturing standards for the vehicle make provisions for transporting passengers.

(u) On adjacent private land, in an area zoned residential, within 300 feet of a dwelling at a speed greater than the minimum required to maintain controlled forward movement of the vehicle except on a roadway, forest road, or forest trail maintained by or under the jurisdiction of the department, or on a road or street on which ORV use is authorized pursuant to section 81131(2), (3), or (5).

Sec. 81147. (1) Except as otherwise provided in this part, a person who violates this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$50.00 or more than \$1,000.00, or both, for

each violation.

(2) A person who violates section 81133(e) by operating an ORV in such a manner as to create an erosive condition or who violates section 81133(i) or (o) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$250.00 or more than \$1,000.00, or both, for each violation.

(3) A person who violates section 81105, 81107, 81115, 81116, 81121, 81130, or 81133(b), (c), (d), (f), (g), (h), (j), (l), or (m) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

(4) A person shall not remove, deface, or destroy a sign or marker placed by the department indicating the boundaries of an ORV trail or area or that marks a route.

(5) In addition to the penalties otherwise provided under this part, a court of competent jurisdiction may order a person to restore, as nearly as possible, any land, water, stream bank, streambed, or other natural or geographic formation damaged by the violation of this part to the condition it was in before the violation occurred.

(6) The department or any other peace officer may impound the ORV of a person who commits a violation of this part that is punishable as a misdemeanor or who causes damage to the particular area in which the ORV was used in the commission of the violation.

(7) Upon conviction of a person for violation described in subsection (5), a court of competent jurisdiction may order the ORV and any personal property on the ORV seized as a result of the violation returned to the owner or, upon recommendation of the local prosecuting attorney, turned over to the department. An ORV or any other property turned over to the department under this subsection shall be disposed of in the manner provided for condemnation of property in part 16. The proceeds realized by the department under this subsection shall first be used to restore areas damaged by ORV use, with the balance to be deposited in the off-road vehicle account.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5559 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.

Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor



**Thomas D. Kaminski**

---

**From:** "Richard & Maribeth Stapley" <rmstapley@kaltelnet.net>  
**To:** "Thomas D. Kaminski" <tdkaminski@manistee-county.net>; "Allan O'Shea" <windowman50@hotmail.com>; <haik@voyager.net>; <janicemccraner@msn.com>; <pglottie@kaltelnet.net>; <spottedog@charter.net>; <kowalkowskid@manisteesheriff.org>  
**Sent:** Saturday, June 28, 2008 10:02 AM  
**Subject:** Fw: ORVs on county roads in northern Michigan

County Board.

This is what we have been waiting for. See you soon.  
Dick Stapley

----- Original Message -----

**From:** Dick  
**To:** "Undisclosed-Recipient:"@mail0.inetmsi.net  
**Sent:** Friday, June 27, 2008 10:21 PM  
**Subject:** Fw: ORVs on county roads in northern Michigan

----- Original Message -----

**From:** District 103  
**To:** District 103  
**Sent:** Friday, June 27, 2008 9:04 PM  
**Subject:** ORVs on county roads in northern Michigan

## **ORVs on county roads in northern Michigan receives final approval by the Michigan Legislature**

House Bill 4323 completed the legislative process tonight and is expected to be signed into law by Governor Granholm in the very near future. This bill clarifies the ability of counties to allow ORVs to operate on county roads, creates uniform operating standards and provides for the establishment of county ORV funds. It is the first major revision to Michigan ORV law in 25 years. Due to the complexity of the bill and the many questions asked about it, we have created this FAQ to reflect the changes to be made to existing ORV law by House Bill 4323. The enrolled version of the bill will be available on the web by Monday at: [http://www.legislature.mi.gov/\(S\(ghwo5e45yot4usqpq2hev155\)\)/mileg.aspx?page=getObject&objectName=2007-HB-4323](http://www.legislature.mi.gov/(S(ghwo5e45yot4usqpq2hev155))/mileg.aspx?page=getObject&objectName=2007-HB-4323) Please contact me at toll-free 1-888-347-8103 or at dist103@house.mi.gov with any additional questions you may have.

Sincerely,

Joel Sheltrown  
State Representative  
103rd House District

### **BASIC QUESTIONS**

#### **Does passage of House Bill 4323 mean that I can now operate an ORV on the road?**

No. You may not operate your ORV on a public street or road until your county, city, village or township adopts an ordinance allowing it.

**What roads are covered?**

County and municipal roads and streets. State and federal highways, roads and trails are not included.

**What counties may open their roads to ORVs?**

Only counties in the northern Lower Peninsula and the Upper Peninsula may open their roads to ORVs. This includes Mason, Lake, Osceola, Clare, Gladwin, Arenac, Bay and any county to the north of those counties. Roughly, this is any county including or north of M-10. Huron, Midland and Isabella are not included.

**Are existing county ORV ordinances still valid?**

The law providing for access routes established with the consent of the DNR or unilaterally established by some counties is repealed. Consequently, local governments must re-adopt ordinances under the new law if they wish to provide for the operation of ORVs on their roads or streets.

**Does the bill include golf carts?**

No.

**FOR LOCAL GOVERNMENTS****What is the process for adopting a county ORV ordinance?**

The county clerk must send notice of a public hearing on a proposed ordinance by certified mail to the county road commission and to the DNR (only if state forestland is located in the county) at least 45 days before the public hearing held by the county board of commissioners. However, the county board of commissioners is not obligated to abide by any recommendation of the county road commission or the DNR in adopting an ordinance.

**What authority does the county road commission have?**

A county road commission may close up to 30% of the linear miles of roads in the county to ORVs in response to a particular and demonstrable threat to public safety or to protect the environment. The 30% applies to the total linear miles of county roads, not 30% of the linear miles of roads open to ORVs.

**What authority do cities, villages and townships have?**

A city or village may open or close its streets to ORVs at any time. No notification to other agencies or units of government is required. A township may close its streets or roads to the operation of ORVs that were opened by the township or county at any time with no notification to other agencies or units of government. If the county does not adopt an ORV ordinance including a particular township, that township may adopt its own ORV ordinance no sooner than 1 year following the effective date of the act. Notification is the same as required of the county except that the notification period is shortened to 30 days.

**What liability do local governments have?**

Local governments do not have a duty to maintain roads or streets in a condition safe and convenient for the operation of ORVs except as otherwise required by law. Local governments are immune from tort liability except for gross negligence (conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results).

**What is the ORV fund?**

The treasurer of the local unit of government adopting an ORV ordinance shall establish a fund to receive fines and damages imposed as a result of violations of the ordinance. The legislative body of that local unit shall appropriate 50% of the revenue in the fund to the county sheriff or local police department for ORV enforcement and training. The legislative body of that local unit shall appropriate the remaining 50% to the county road commission or local public works office (city and village only) for repairing damage to the environment, roads, streets or other public property caused by ORVs and/or to post signs indicating ORV speed limits or whether a road or street is open or closed to ORVs.

**FOR RIDERS****What are the general operating standards?**

Operation must be to the far right of the maintained portion of the road or street. An ORV may not be operated against the flow of traffic. The maximum speed of operation is 25 mph unless a lower speed limit has been posted. An ORV may not interfere with other traffic on the road or street. ORVs must travel single file except when passing.

**Are headlights/taillights required to operate an ORV on a road or street?**

Prior to January 1, 2010 a person must display a lighted headlight and taillight when visibility is reduced. Beginning January 1, 2010, any ORV operating on the road at any time must display a lighted headlight and taillight.

**What are the permitted hours of operation?**

Operation is permitted at all hours. A lighted headlight and taillight must be used from 1/2 hour after sunset to 1/2 hour before sunrise.

**How old does a child have to be to operate an ORV on a road?**

A person under age 12 may not operate an ORV on a street or road. A child age 12, 13, 14 and 15 may operate an ORV on a road under the direct visual supervision of an adult and has in their immediate possession and ORV safety certificate. Children younger than 16 may not operate a 3-wheeled ORV or an ORV wider than 60" on a road. A child age 16 or 17 may operate without direct visual supervision provided they have a valid drivers license and an ORV safety certificate in their possession. Michigan will recognize an ORV safety certificate issued by other state or a province of Canada.

**Who is at fault in the event of an accident?**

In the event an ORV is in an accident with another vehicle legally permitted to operate on the road or street, the owner of the ORV shall be considered prima facie negligent. The owner of an ORV does not qualify for no-fault/PIP benefits in the event of a single vehicle accident or an accident with

another ORV.

**What is the penalty for violating an ORV ordinance?**

The penalty is a municipal civil infraction with a fine of not more than \$500 and/or damages to repair any damage to the environment, street, road or other public property. The fine and damages shall be deposited into a local ORV fund.

**What is the penalty for creating an erosive condition or violating state environmental law?**

The penalty is a misdemeanor punishable by imprisonment for not more than 90 days and/or a fine of not less than \$250 or more than \$1000 for each violation.

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No virus found in this incoming message.

Checked by AVG.

Version: 7.5.524 / Virus Database: 270.4.1/1521 - Release Date: 6/26/2008 11:20 AM

7/29/2008



**Thomas D. Kaminski**

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**From:** "Marilyn Kliber" <mikliber@manistee-county.net>  
**To:** "Thomas D. Kaminski" <tdkaminski@manistee-county.net>  
**Sent:** Wednesday, July 30, 2008 11:16 AM  
**Attach:** model ordinance.doc  
**Subject:** FW: Model ORV Ordinance

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**From:** District 103 [mailto:Dist103@house.mi.gov]  
**Sent:** Wednesday, July 30, 2008 10:18 AM  
**To:** District 103  
**Subject:** Model ORV Ordinance

Dear northern clerks and other interested parties:

The Michigan Association of Counties and I have received a number of requests for a model county ORV ordinance and instructions on adopting an ordinance. Attached to this e-mail is a model ordinance you may wish to use to draft your county ordinance. This ordinance was drafted based in part on the prior Marquette County and Iosco County ordinances supplied by MAC adjusted to meet the changes in state law. While you do not need to use the model ordinance for your county, other versions of the ordinance must meet the requirements of the new law.

The model ordinance provides counties with four options in opening its roads:

- A) Opens all roads and streets in the county.
- B) Opens all roads and streets in the county with exceptions noted in the ordinance.
- C) Opens only the roads and streets in the county listed in the ordinance.
- D) Authorizes townships to open their roads and streets. (Cities and villages already have this authority. Townships will acquire it regardless of a county ordinance after July 17, 2009)

At least 45 days prior to adopting an ordinance, the county board of commissioners must vote to notify the county road commission and the DNR (if there is state land in the county) of its intention to adopt an ordinance. However, it does not need to provide the road commission and DNR with the ordinance it intends to adopt. The notice can simply say:

*"Pursuant to 2008 PA 240, MCL 324.81131, the \_\_\_\_\_ County Board of Commissioners may consider an ordinance opening the far right portion of some or all of its roads and/or streets to the passage of ORVs. This letter is being sent to you as the notice required by subsection (2) of that section. The hearing on the ordinance will take place not less than 45 days from the date this letter is post marked."*

The notice should be sent to the Manager of the county road commission. If there is any state forest land within the county, a notice should also be sent to:

Rebecca Humphries, Director  
Department of Natural Resources  
P.O. Box 30028  
Lansing, MI 48909

The letters must be sent by certified mail.

As always, please feel free to contact me or the Michigan Association of Counties with any questions you may have.

Sincerely,

Joel Sheltroun  
State Representative  
103rd House District

A-15

**Thomas D. Kaminski**

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**From:** "Marilyn Kliber" <mikliber@manisteecounty.net>  
**To:** "Thomas D. Kaminski" <tdkaminski@manisteecounty.net>  
**Sent:** Friday, August 01, 2008 11:18 AM  
**Attach:** Model Ordinance Revised.doc  
**Subject:** FW: Revised Model ORV Ordinance

---

**From:** District 103 [mailto:Dist103@house.mi.gov]  
**Sent:** Friday, August 01, 2008 11:09 AM  
**To:** District 103  
**Subject:** Revised Model ORV Ordinance

Dear northern clerks and other interested parties:

The Michigan Association of Counties has made some revisions to the model ORV ordinance. The revised ordinance is attached below. Please use this version rather than the version previously sent if your county board of commissioners intends to adopt an ORV ordinance.

Sincerely,

Joel Sheltroun  
State Representative  
103rd House District

8/1/2008

**STATE OF MICHIGAN  
COUNTY OF \_\_\_\_\_  
ORV ORDINANCE**

**ORDINANCE No. \_\_\_\_\_**

An ordinance adopted for the purpose of authorizing and regulating the operation of Off Road Vehicles (ORVs) on roads in \_\_\_\_\_ County, for the purpose of providing penalties for the violation thereof, and for the distribution of public funds resulting from those penalties pursuant to 2008 PA 240, MCL 324.81131.

THE COUNTY OF \_\_\_\_\_ ORDAINS:

**Sec. 1** As used in this ordinance, the following definitions shall apply:

- a) "County" means the County of \_\_\_\_\_.
- b) "Driver license" means an operator's or chauffeur's license or permit issued to an individual by the secretary of state under chapter III of the Michigan vehicle code, 1949 PA 300, MCL 257.301 to 257.329, for that individual to operate a vehicle, whether or not conditions are attached to the license or permit.
- c) "Operate" means to ride in or on, and be in actual physical control of the operation of an ORV.
- d) "Operator" means a person who operates or is in actual physical control of the operation of an ORV.
- e) "ORV" means a motor driven off road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV or vehicle includes, but is not limited to, a multitrack or multiwheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind.
- f) "Road" means a county primary road or county local road as described in section 5 of 1951 PA 51, MCL 247.655.
- g) "Road Commission" means the Board of County Road Commissioners for the County of \_\_\_\_\_.
- h) "Safety certificate" means a certificate issued pursuant to 1994 PA 451 as amended, MCL 324.81129, or a comparable ORV safety certificate issued

under the authority of another state or a province of Canada."

- i) "Township" means an individual township within the County of \_\_\_\_\_.
- j) "Township Board" means a board of trustees of any township within the County of \_\_\_\_\_.
- k) "Visual supervision" means the direct observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.

**Sec. 2 [Alternative A]** An ORV may be operated on the far right of the maintained portion of a road within the county.

**Sec. 2 [Alternative B]** An ORV may be operated on the far right of the maintained portion of a road within the county with these exceptions:

- a)
- b)
- c)

**Sec. 2 [Alternative C]** An ORV may be operated on the far right of the maintained portion of the roads within the county here described:

- a)
- b)
- c)

**Sec. 3** A township board of a township in the county may adopt an ordinance to close any roads within the boundaries of the township to the operation of ORVs permitted by the county. Beginning July 17, 2009, the township board of a township in the county may adopt an ordinance authorizing the operation of ORVs: on the maintained portion of 1 or more roads located within the township," pursuant to MCL 324.81131 (3).

**Sec. 4** The county road commission may close no more than 30% of the total linear miles of roads in the county to protect the environment or if the operation of ORVs pose a particular and demonstrable threat to public safety. The road commission may not close a municipal street to ORVs opened under Section 5 of this ordinance.

**Sec. 5** An ORV may not be operated on the road surface, roadway, shoulder or right-of-way of any state or federal highway in the county.

**Sec. 6** Except as set forth herein or otherwise provided by law, an ORV meeting all of the following conditions may be operated on a road or street in the county:

- a) at a speed of no more than 25 miles per hour or a lower posted ORV speed limit.
- b) by a person not less than 12 years of age.
- c) with the flow of traffic.
- d) in a manner which does not interfere with traffic on the road or street.
- e) traveling single file except when overtaking and passing another ORV.
- f) when visibility is not substantially reduced due to weather conditions unless displaying a lighted headlight and lighted taillight.
- g) 1/2 hour before sunrise until 1/2 after sunset unless displaying a lighted headlight and lighted taillight.
- h) while displaying a lighted headlight and lighted taillight at all hours beginning January 1, 2010.
- i) while the operator and each passenger is wearing a crash helmet and protective eyewear approved by the United States department of transportation unless the vehicle is equipped with a roof that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened seat belt.
- j) with a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.
- k) while the ORV is equipped with a spark arrester type United States forest service approved muffler in good working order and in constant operation.
- l) pursuant to noise emission standards defined by law.

**Sec. 7** A child less than 16 years of age shall not operate an ORV on a road in the county unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession a Michigan issued ORV safety certificate or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

**Sec. 8** Unless a person possesses a valid drivers license, a person shall not operate an ORV on a road or street in the county if the ORV is registered as a motor vehicle and is either more than 60 inches wide or has three wheels.

**Sec. 9** Any person who violates this ordinance is guilty of a municipal civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

**Sec. 10** A court may order a person who causes damage to the environment, a road or other property as a result of the operation of an ORV to pay full restitution for that damage above and beyond the penalties paid for civil fines.

**Sec. 11** The County Treasurer shall deposit all fines and damages collected under this ordinance into a fund to be designated as the ORV Fund. The County of Board of Commissioners shall appropriate revenue in the ORV Fund as follows:

- a) Fifty percent the County Road Commission for repairing damage to roads and the environment that may have been caused by ORVs, and for posting sign

indicating ORV speed limits, or indicating whether roads are open or closed to the operation of ORVs.

b) Fifty percent to the County Sheriff for ORV enforcement and training.

**Sec. 12** This ordinance becomes effective \_\_\_\_\_.

This Ordinance is adopted by action of the \_\_\_\_\_ County Board of Commissioners this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Commissioners voting "Aye":

Commissioners voting "Nay":

Commissioners Absent:

\_\_\_\_\_, Chair  
\_\_\_\_\_  
\_\_\_\_\_ Board of Commissioners

**Certification**

\_\_\_\_\_, I, \_\_\_\_\_, Clerk of the County of \_\_\_\_\_, do hereby certify that this is a true and correct copy of the Ordinance duly adopted by the \_\_\_\_\_ County Board of Commissioners on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ County Clerk



**Thomas D. Kaminski**

---

**From:** "Richard & Maribeth Stapley" <rmstapley@kaltelnet.net>  
**To:** "Thomas D. Kaminski" <tdkaminski@manistee-county.net>; "Allan O'Shea" <windowman50@hotmail.com>  
**Sent:** Tuesday, July 22, 2008 11:21 AM  
**Subject:** Fw: draft

FYI

Dick Stapley

----- Original Message -----

From: "Dick" <dranneyl@charter.net>  
 To: "Dick" <dranneyl@charter.net>  
 Sent: Tuesday, July 22, 2008 10:03 AM  
 Subject: Fw: draft

>  
 > ----- Original Message -----  
 > From: "District 103" <Dist103@house.mi.gov>  
 > To: <dranneyl@charter.net>  
 > Sent: Tuesday, July 22, 2008 9:13 AM  
 > Subject: Re: draft  
 >  
 >  
 > Dick,  
 >  
 > I suspect a number of counties are waiting for a model ordinance before  
 > they send their letters of intent. They don't need to. In fact, they  
 > shouldn't send any details of what roads they plan to open. The notice  
 > should simply say:  
 >  
 >  
 > "Pursuant to 2008 PA 240, MCL 324.81131, the \_\_\_\_\_ County Board of  
 > Commissioners may consider an ordinance opening the far right portion of  
 > some or all of its roads and/or streets to the passage of ORVs. This  
 > letter is being sent to you as the notice required by subsection (2) of  
 > that section. The hearing on the ordinance will take place not less than  
 > 45 days from the date this letter is post marked."  
 >  
 > The notice should be sent to the Manager of the county road commisison.  
 > If there is any state forest land within the county, a notice should also  
 > be sent to:  
 >  
 > Rebecca Humphries, Director  
 > Department of Natural Resources  
 > P.O. Box 30028  
 > Lansing, MI 48909  
 >  
 > The letters must be sent by certified mail.  
 >

7/29/2008

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&gt;

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&gt; No virus found in this incoming message.

&gt; Checked by AVG. Version: 7.5.524 / Virus Database: 270.5.4/1566 - Release

&gt; Date: 7/22/2008 6:00 AM

&gt;

&gt;

**Thomas D. Kaminski**

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**From:** "Richard & Maribeth Stapley" <rmstapley@kaltelnet.net>  
**To:** "Thomas D. Kaminski" <tdkaminski@manistee-county.net>; "Allan O'Shea" <windowman50@hotmail.com>; <pglottie@kaltelnet.net>; <janicemccraner1@msn.com>; <spottedog@charter.net>; <haik@voyager.net>; <kowalkowskid@manisteesheriff.org>  
**Sent:** Tuesday, July 22, 2008 11:12 AM  
**Subject:** Fw: letter to the editor

Tom.

Will you get this to Carl, and Erve.

Dick Stapley

----- Original Message -----

**From:** Richard & Maribeth Stapley  
**To:** dlbarber@pioneer-group.com ; kgrabowski@pioneer-group.com  
**Sent:** Tuesday, July 22, 2008 11:02 AM  
**Subject:** letter to the editor

Letter to the Editor.

July 17 2008 Governor Granholm signed into law HB4323. The ORV Bill that permits Counties to adopt an ordinance permitting ORV'S on the shoulder of the County Roads in their County. The past 2 1/2 years the Bill has been processed in Lansing, organizations like DEQ, CRAM, MDOT, DNR, MAC, STATE POLICE, MTLA, AND INSURANCE ASSO. have been involved making this new ORV law. All these groups, 140 Legislators, and the Governor, think this is doable, and good for the economy in northern Michigan.

The law, has speed limits at 25 mph, strict penalties, fines from \$25 to \$1000 plus restitution. There are provisions to get revenue for Law enforcement & Road repair.

There is no reason for the County not to do this. If a given Township don't want it they can opt out.

Manistee County is LUCKY we don't have a DNR Trail, A trail would draw the element of people that would do the things the critics fear. The Ordinance would be more for the Residents & land Owners, there are 100's of non-resident land owners, that will dump a lot of \$\$\$ in the area.

ORV'S are here to stay, and the tools are in place to deal with them, its time to do it.

Dick Stapley  
MCATVA

**Thomas D. Kaminski**

---

**From:** "Richard & Maribeth Stapley" <rmstapley@kaltelnet.net>  
**To:** "Thomas D. Kaminski" <tdkaminski@manistee-county.net>  
**Sent:** Monday, July 21, 2008 11:25 AM  
**Subject:** Fw: Implementing PA 240

Tom,

Will you send this to the Commissioners.

I would like to be on the agenda to speak, at the next Commissioners.

Thanks

Dick Stapley

----- Original Message -----

**From:** Dick

**To:** Northern Escape Lodge ; Richard and Maribeth Stapley

**Sent:** Monday, July 21, 2008 10:05 AM

**Subject:** Implementing PA 240

All:

Please share this with the interested parties in your area. HB 4323/PA240 describes the point of beginning to establish an ORV ordinance as follows;

HB 4323, Page 8, lines 8-15 is the starting point. Page 9, lines 1-4 describes the Road Commission portion. One needs to read the entire bold print of the bill to get a complete understanding of changes.

We are currently working on a proposed master ordinance that we hope to have available through Michigan Association of Counties in the very near future. If you have any questions, please feel free to call myself @ 989 469-2405 or call Representative Sheltowns office and talk with Brady Schickinger.

Will do our best to keep everyone informed of any new knowledge.

later, Dick

---

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Checked by AVG.

Version: 7.5.524 / Virus Database: 270.5.3/1564 - Release Date: 7/21/2008 6:42 AM

7/29/2008

**Thomas D. Kaminski**

---

**From:** "Richard & Maribeth Stapley" <rmstapley@kaltnet.net>  
**To:** "Thomas D. Kaminski" <tdkaminski@manistee-county.net>; "Allan O'Shea" <windowman50@hotmail.com>; <pglottie@kaltnet.net>; <janicemccraner1@msn.com>; <spotteddog@charter.net>; <haik@voyager.net>; <kowalkowskid@manisteesheriff.org>  
**Sent:** Thursday, July 17, 2008 12:27 PM  
**Subject:** Fw: ORVs bill signed into law!

Tom.

Will you get this to the other Commissioners. I don't think my address for Janice McCraner is correct.

Dick Stapley----- Original Message -----

**From:** District 103  
**To:** District 103  
**Sent:** Thursday, July 17, 2008 11:22 AM  
**Subject:** ORVs bill signed into law!

Friends:

House Bill 4323, which provides clear legal authority for counties, townships, cities and villages in northern Michigan to allow ORVs on their road shoulders was signed into law this morning. It is now Public Act 240 of 2008.

Counties, cities and villages may begin the process of adopting their ordinances immediately. Under the new law, counties must provide a 45 day comment period to their county road commissioners and the DNR (if state forest land is in the county). County ordinances won't go into affect until approved by the county board of commissioners following this 45 day period. Cities and villages do not need to provide a comment period and could adopt ordinances for their streets beginning today. Under law, townships may not begin the process of adopting their ordinances until July 17, 2009 unless empowered by the county to do so sooner. A model ordinance will be available through my office or by contacting the Michigan Association of Counties.

Please be aware that the new law removed the old "access route" language previously in law. Consequently, none of the existing ORV ordinances in any northern Michigan county, including the counties in Upper Peninsula are valid. Until new ordinances are adopted, it is not legal to drive an ORV on a road or street anywhere in Michigan.

Another common question about the new law is whether it covers golf carts. While it is possible to drive a golf cart on an ORV trail in the state provided it has an ORV permit, this does not legally make a golf cart an ORV. In order to qualify as an ORV, a golf cart has to be capable of cross country travel without benefit of road or trail. While some golf carts have been modified to accomplish this and would likely qualify under the new law, the standard golf cart would not qualify.

I would like to thank all of you who helped in drafting this legislation during the public comment process and for helping lobby for this bill during the past two years. We overcame stiff opposition from the County Road Association of Michigan and various other Lansing special interests and bureaucrats. Many people doubted we would succeed. But today, we have prevailed in making a historic change to ORV law in Michigan.

Enjoy your weekend and start contacting your county commissioners to get an ordinance adopted in your area!

Thanks again,

Joel Sheltroun  
 State Representative  
 103rd House District

No virus found in this incoming message.

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Version: 7.5.524 / Virus Database: 270.5.0/1557 - Release Date: 7/17/2008 5:36 AM

7/29/2008



**Thomas D. Kaminski**

---

**From:** "Richard & Maribeth Stapley" <rmstapley@kaltelnet.net>  
**To:** "Thomas D. Kaminski" <tdkaminski@manisteeecounty.net>  
**Sent:** Monday, July 21, 2008 11:25 AM  
**Subject:** Fw: Implementing PA 240

Tom.

Will you send this to the Commissioners.

I would like to be on the agenda to speak, at the next Commissioners.

Thanks

Dick Stapley

----- Original Message -----

**From:** Dick

**To:** Northern Escape Lodge ; Richard and Maribeth Stapley

**Sent:** Monday, July 21, 2008 10:05 AM

**Subject:** Implementing PA 240

All:

Please share this with the interested parties in your area. HB 4323/PA240 describes the point of beginning to establish an ORV ordinance as follows;

HB 4323, Page 8, lines 8-15 is the starting point. Page 9, lines 1-4 describes the Road Commission portion. One needs to read the entire bold print of the bill to get a complete understanding of changes.

We are currently working on a proposed master ordinance that we hope to have available through Michigan Association of Counties in the very near future. If you have any questions, please feel free to call myself @ 989 469-2405 or call Representative Sheltrons office and talk with Brady Schickinger.

Will do our best to keep everyone informed of any new knowledge.

later, Dick

---

No virus found in this incoming message.

Checked by AVG.

Version: 7.5.524 / Virus Database: 270.5.3/1564 - Release Date: 7/21/2008 6:42 AM

7/29/2008

**Thomas D. Kaminski**

---

**From:** "Richard & Maribeth Stapley" <rmstapley@kaltelnet.net>  
**To:** "Thomas D. Kaminski" <tdkaminski@manisteeecounty.net>; <RGIfs@aol.com>; "Allan O'Shea" <windowman50@hotmail.com>; <pglottie@kaltelnet.net>; <janicemccraner1@msn.com>; <spottedog@charter.net>; <haik@voyager.net>; <kowalkowskid@manisteesherriff.org>  
**Sent:** Friday, July 18, 2008 12:13 PM  
**Attach:** 4323 Final.pdf  
**Subject:** Fw: CURRENT COPY OF BILL

Tom

Here is a copy of the new ORV Law its public act 240 & 241. Will you send this to the Commissioners.

Thanks

Dick Stapley

----- Original Message -----

**From:** Dick

**To:** Richard and Maribeth Stapley

**Sent:** Friday, July 18, 2008 10:41 AM

**Subject:** Fw: CURRENT COPY OF BILL

----- Original Message -----

**From:** District 103

**To:** Dick

**Sent:** Monday, July 07, 2008 3:17 PM

**Subject:** Re: CURRENT COPY OF BILL

Attached.

>>> "Dick" <dranne1@charter.net> 7/7/2008 3:01 PM >>>

Brady:

Can you get me copy today, am going to Grant Twp. meeting tonite.

later, Dick

---

No virus found in this incoming message.

Checked by AVG.

Version: 7.5.524 / Virus Database: 270.5.1/1560 - Release Date: 7/18/2008 6:47 AM

7/29/2008



A-27

HB-4323, As Passed Senate, June 27, 2008

SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4323

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 81115, 81129, 81131, 81133, and 81147 (MCL  
324.81115, 324.81129, 324.81131, 324.81133, and 324.81147),  
sections 81115 as amended by 2003 PA 111, section 81129 as amended  
by 2008 PA 164, section 81131 as added by 1995 PA 58, section 81133  
as amended by 1998 PA 86, and section 81147 as amended by 2004 PA  
587.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 81115. (1) A PERSON SHALL NOT OPERATE AN ORV UNDER ANY OF
- 2       THE FOLLOWING CONDITIONS UNLESS THE ORV IS LICENSED WITH THE
- 3       DEPARTMENT OR A DEALER AS PROVIDED UNDER THIS PART:

House Bill No. 4323 as amended June 27, 2008

1       (A) Except as otherwise provided by law, ~~an ORV shall not be~~  
2 ~~operated on or over land, snow, ice, <<marsh, swampland,>> or other~~  
3 ~~natural terrain. unless licensed by the owner with the department~~  
4 ~~or a dealer as provided in this part.~~

5       (B) Except as otherwise provided in this part, ~~a vehicle~~  
6 ~~operating on a forest trail or in a designated area. shall be~~  
7 ~~licensed under this part.~~

8       (C) **EXCEPT AS OTHERWISE PROVIDED IN SECTION 81102, ON THE**  
9 **MAINTAINED PORTION OF A ROAD OR STREET.**

10       (2) Licensure is not required for an ORV used exclusively in a  
11 safety and training program as required in section 81129.

12       Sec. 81129. (1) Subject to subsections (2), (3), (17), and  
13 (18), a parent or legal guardian of a child less than 16 years of  
14 age shall not permit the child to operate an ORV unless the child  
15 is under the direct visual supervision of an adult and the child  
16 has in his or her immediate possession an ORV safety certificate  
17 issued pursuant to this part or a comparable ORV safety certificate  
18 issued under the authority of another state or a province of  
19 Canada.

20       (2) Subject to subsection (18), a parent or legal guardian of  
21 a child less than 12 years of age shall not permit the child to  
22 operate a 4-wheeled ATV, unless the child is not less than 10 years  
23 of age and is on private land owned by a parent or legal guardian  
24 of the child. This subsection does not apply to the operation of an  
25 ATV used in agricultural operations.

26       (3) A parent or legal guardian of a child less than 16 years  
27 of age shall not permit the child to operate a 3-wheeled ATV.

1           (4) Subject to subsections (5), (6), (17), and (18), the owner  
2 or person in charge of an ORV shall not knowingly permit the  
3 vehicle to be operated by a child less than 16 years of age unless  
4 the child is under the direct visual supervision of an adult and  
5 the child has in his or her immediate possession an ORV safety  
6 certificate issued pursuant to this part or a comparable ORV safety  
7 certificate issued under the authority of another state or a  
8 province of Canada.

9           (5) Subject to subsection (18), the owner or person in charge  
10 of a 4-wheeled ATV shall not knowingly permit the vehicle to be  
11 operated by a child less than 12 years of age, unless the child is  
12 not less than 10 years of age and is on private land owned by a  
13 parent or legal guardian of the child. This subsection does not  
14 apply to the operation of an ATV used in agricultural operations.

15           (6) The owner or person in charge of a 3-wheeled ATV shall not  
16 knowingly permit the vehicle to be operated by a child less than 16  
17 years of age.

18           (7) The owner or person in charge of an ORV shall not  
19 knowingly permit the vehicle to be operated by a person who is  
20 incompetent to operate the vehicle because of mental or physical  
21 disability except as provided in section 81131.

22           (8) The department shall implement a comprehensive ORV  
23 information, safety education, and training program that shall  
24 include the training of operators and the preparation and  
25 dissemination of information and safety advice to the public. The  
26 program shall provide for the training of youthful operators and  
27 for the issuance of ORV safety certificates to those who

1 successfully complete the training provided under the program and  
2 may include separate instruction for each type of ORV.

3 (9) In implementing a program ~~that is established pursuant to~~  
4 ~~this section~~ **UNDER SUBSECTION (8)**, the department shall cooperate  
5 with private organizations and associations, private and public  
6 corporations, the department of education, the department of state,  
7 and local governmental units. The department shall consult with ORV  
8 and environmental organizations and associations in regard to the  
9 subject matter of a training program and performance testing that  
10 leads to certification of ORV operators.

11 (10) The department may designate a person it considers  
12 qualified to provide course instruction and to award ORV safety  
13 certificates.

14 (11) The department may promulgate rules to implement  
15 subsections (8) to (10) and (18).

16 (12) Subject to subsections (13), (14), (17), and (18), a  
17 child who is less than 16 years of age ~~may~~ **SHALL NOT** operate an ORV  
18 ~~if~~ **UNLESS** the child is under the direct visual supervision of an  
19 adult and the child has in his or her immediate possession an ORV  
20 safety certificate issued pursuant to this section or a comparable  
21 ORV safety certificate issued under the authority of another state  
22 or a province of Canada.

23 (13) Subject to subsection (18), a child who is less than 12  
24 years of age shall not operate a 4-wheeled ATV, unless the child is  
25 not less than 10 years of age and is on private land owned by a  
26 parent or legal guardian of the child. This subsection does not  
27 apply to the operation of an ATV used in agricultural operations.

1 (14) A child who is less than 16 years of age shall not  
2 operate a 3-wheeled ATV.

3 (15) Subject to subsection (18), when operating an ORV, ~~under~~  
4 ~~subsection (12)~~, a child **WHO IS LESS THAN 16 YEARS OF AGE** shall  
5 present the ORV safety certificate to a peace officer upon demand.

6 (16) Notwithstanding any other provision of this section, an  
7 operator who is less than 12 years of age shall not cross a highway  
8 or street. An operator who is not less than 12 years of age but  
9 less than 16 years of age may cross a highway or street or operate  
10 on the right-of-way or shoulder of ~~designated access routes~~ **ROADS**  
11 **AND STREETS ON WHICH ORV USE IS AUTHORIZED** pursuant to section  
12 ~~81131-81131~~(2), (3), OR (5) if the operator has a valid ORV safety  
13 certificate in his or her immediate possession and meets any other  
14 requirements under this section for operation of the vehicle.

15 (17) The requirement of possession or presentation of an ORV  
16 safety certificate under this section does not apply until  
17 implementation of the program for the vehicle proposed to be  
18 operated required by subsection (8).

19 (18) The requirement that a child possess an ORV safety  
20 certificate to operate an ORV, and the requirement that a child who  
21 is less than 12 years of age not operate a 4-wheeled ATV unless the  
22 child is not less than 10 years of age and is on private land owned  
23 by a parent or legal guardian of the child, do not apply if all of  
24 the following requirements are met:

25 (a) The child is participating in an organized ORV riding or  
26 racing event held on land not owned by this state.

27 (b) The child's parent or legal guardian has provided the

1 event organizer with written permission for the child to  
2 participate in the event.

3 (c) The event organizer has not less than \$500,000.00  
4 liability insurance coverage for the event.

5 (d) A physician or physician's assistant licensed or otherwise  
6 authorized under part 170 or 175 of the public health code, 1978 PA  
7 368, MCL 333.17001 to 333.17084 and 333.17501 to 333.17556, or a  
8 paramedic or emergency medical technician licensed under part 209  
9 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979,  
10 is present at the site of the event or available on call.

11 (e) The event is at all times under the direct visual  
12 supervision of adult staff of the event organizer and a staff  
13 member serves as a flagger to warn ORV riders if another ORV rider  
14 is injured or an ORV is inoperable in the ORV operating area.

15 (f) Fencing or another means of crowd control is used to keep  
16 spectators out of the ORV operating area.

17 (g) If the event is on a closed course, dust is controlled in  
18 the ORV operating area and the riding surface in the ORV operating  
19 area is otherwise properly prepared.

20 (h) Three-wheeled ATVs are not used by participants.

21 (i) Any ATVs used by participants are equipped with a side  
22 step bar or comparable safety equipment and with a tether kill  
23 switch, and the tether is used by all participants.

24 (j) Each participant in the event wears a crash helmet  
25 approved by the United States department of transportation, a  
26 protective long-sleeved shirt or jacket, long pants, boots, and  
27 protective gloves.



1 (k) Any other applicable requirements of this part or rules  
2 promulgated under this part are met.

3 (19) If a child less than 16 years of age participates and is  
4 injured in an organized ORV riding or racing event, the organizer  
5 of the event shall, within 30 days after the event, submit to the  
6 department a report on a form developed by the department. The  
7 report shall include all of the following, as applicable:

8 (a) Whether any participant less than 16 years of age was  
9 killed or suffered an injury resulting in transportation to a  
10 hospital as a result of an ORV accident at the event.

11 (b) The age of the child.

12 (c) Whether the child had been issued an ORV safety  
13 certificate under this part or a comparable ORV safety certificate  
14 issued under the authority of another state or a province of  
15 Canada.

16 (d) The type of ORV operated.

17 (e) A description of the accident and injury.

18 (20) By December 31 of each year, the department shall submit  
19 to the legislature a report that summarizes reports received under  
20 subsection (19) during the preceding calendar year. In the report,  
21 the department may recommend amendments to this part to improve the  
22 safety of children less than 16 years of age participating in  
23 organized ORV riding or racing events.

24 **(21) THE REQUIREMENTS OF THIS SECTION ARE IN ADDITION TO ANY**  
25 **APPLICABLE REQUIREMENTS OF SECTION 81131(9).**

26 Sec. 81131. ~~(1) A local unit of government may pass an~~  
27 ~~ordinance establishing access routes along streets and highways~~



1 ~~under its jurisdiction, if those access routes do not involve state~~  
2 ~~or federal highways, and if they meet the requirements of the plan~~  
3 ~~developed pursuant to section 81127. If necessary, consent of a~~  
4 ~~state or federal land management agency shall be obtained for the~~  
5 ~~location of the route.~~

6 (1) ~~(2)~~ A municipality may pass an ordinance allowing a  
7 permanently disabled person to operate an ORV in that municipality.

8 (2) SUBJECT TO SUBSECTIONS (4) AND (7), THE COUNTY BOARD OF  
9 COMMISSIONERS OF AN ELIGIBLE COUNTY MAY ADOPT AN ORDINANCE  
10 AUTHORIZING THE OPERATION OF ORVS ON THE MAINTAINED PORTION OF 1 OR  
11 MORE ROADS LOCATED WITHIN THE COUNTY. NOT LESS THAN 45 DAYS BEFORE  
12 A PUBLIC HEARING ON THE ORDINANCE, THE COUNTY CLERK SHALL SEND  
13 NOTICE OF THE PUBLIC HEARING, BY CERTIFIED MAIL, TO THE COUNTY ROAD  
14 COMMISSION AND, IF STATE FORESTLAND IS LOCATED WITHIN THE COUNTY,  
15 TO THE DEPARTMENT.

16 (3) SUBJECT TO SUBSECTIONS (4) AND (7), BEGINNING 1 YEAR AFTER  
17 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
18 SUBSECTION, THE TOWNSHIP BOARD OF A TOWNSHIP LOCATED IN AN ELIGIBLE  
19 COUNTY MAY ADOPT AN ORDINANCE AUTHORIZING THE OPERATION OF ORVS ON  
20 THE MAINTAINED PORTION OF 1 OR MORE ROADS LOCATED WITHIN THE  
21 TOWNSHIP. NOT LESS THAN 28 DAYS BEFORE A PUBLIC HEARING ON THE  
22 ORDINANCE, THE TOWNSHIP CLERK SHALL SEND NOTICE OF THE PUBLIC  
23 HEARING, BY CERTIFIED MAIL, TO THE COUNTY ROAD COMMISSION AND, IF  
24 STATE FORESTLAND IS LOCATED WITHIN THE TOWNSHIP, TO THE DEPARTMENT.

25 (4) THE BOARD OF COUNTY ROAD COMMISSIONERS MAY CLOSE A ROAD TO  
26 THE OPERATION OF ORVS UNDER SUBSECTION (2) OR (3) TO PROTECT THE  
27 ENVIRONMENT OR IF THE OPERATION OF ORVS UNDER SUBSECTION (2) OR (3)

House Bill No. 4323 as amended June 27, 2008

1   POSES A PARTICULAR AND DEMONSTRABLE THREAT TO PUBLIC SAFETY. A  
2   COUNTY ROAD COMMISSION SHALL NOT UNDER THIS SUBSECTION CLOSE MORE  
3   THAN 30% OF THE LINEAR MILES OF ROADS LOCATED WITHIN THE COUNTY TO  
4   THE OPERATION OF ORVS UNDER SUBSECTION (2) OR (3). THE TOWNSHIP  
5   BOARD OF A TOWNSHIP LOCATED IN AN ELIGIBLE COUNTY MAY ADOPT AN  
6   ORDINANCE TO CLOSE A ROAD TO THE OPERATION OF ORVS UNDER SUBSECTION  
7   (2).

8           (5) SUBJECT TO SUBSECTION (7), THE LEGISLATIVE BODY OF A  
9   MUNICIPALITY LOCATED IN AN ELIGIBLE COUNTY MAY ADOPT AN ORDINANCE  
10  AUTHORIZING THE OPERATION OF ORVS ON THE MAINTAINED PORTION OF 1 OR  
11  MORE STREETS WITHIN THE MUNICIPALITY.

12           (6) SUBJECT TO SUBSECTIONS (4) AND (7), IF A LOCAL UNIT OF  
13  GOVERNMENT ADOPTS AN ORDINANCE PURSUANT TO SUBSECTION (2), (3), OR  
14  (5), A PERSON MAY OPERATE AN ORV WITH THE FLOW OF TRAFFIC ON THE  
15  FAR RIGHT OF THE MAINTAINED PORTION OF THE ROAD OR STREET COVERED  
16  BY THE ORDINANCE. A PERSON SHALL NOT OPERATE AN ORV PURSUANT TO  
17  SUBSECTION (2), (3), OR (5) AT A SPEED GREATER THAN 25 MILES PER  
18  HOUR OR A LOWER POSTED ORV SPEED LIMIT OR IN A MANNER THAT  
19  INTERFERES WITH TRAFFIC ON THE ROAD OR STREET. <<UNLESS THE PERSON  
20  POSSESSES A LICENSE AS DEFINED IN SECTION 25 OF THE MICHIGAN VEHICLE  
21  CODE, 1949 PA 300, MCL 257.25, A PERSON SHALL NOT OPERATE AN ORV PURSUANT  
22  TO SUBSECTION (2), (3), OR (5) IF THE ORV IS REGISTERED AS A MOTOR  
23  VEHICLE UNDER CHAPTER II OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL  
24  257.201 TO 257.259, AND EITHER IS MORE THAN 60 INCHES WIDE OR HAS 3  
25  WHEELS.>> ORVS OPERATED  
26  PURSUANT TO SUBSECTION (2), (3), OR (5) SHALL TRAVEL SINGLE FILE,  
27  EXCEPT THAT AN ORV MAY TRAVEL ABREAST OF ANOTHER ORV WHEN IT IS  
28  OVERTAKING AND PASSING, OR BEING OVERTAKEN AND PASSED BY, ANOTHER  
29  ORV.

30           (7) SUBSECTIONS (2) TO (6) AND AN ORDINANCE ADOPTED UNDER  
31  SUBSECTION (2), (3), OR (5) DO NOT APPLY BEGINNING 5 YEARS AFTER  
32  THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
33  SUBSECTION.

1 (8) IN ADDITION TO ANY APPLICABLE REQUIREMENT OF SECTION  
2 81133(C), A PERSON SHALL NOT OPERATE AN ORV PURSUANT TO THIS  
3 SECTION WHEN VISIBILITY IS SUBSTANTIALLY REDUCED DUE TO WEATHER  
4 CONDITIONS WITHOUT DISPLAYING A LIGHTED HEADLIGHT AND LIGHTED  
5 TAILLIGHT. BEGINNING JANUARY 1, 2010, A PERSON SHALL NOT OPERATE AN  
6 ORV PURSUANT TO THIS SECTION WITHOUT DISPLAYING A LIGHTED HEADLIGHT  
7 AND LIGHTED TAILLIGHT.

8 (9) A PERSON UNDER 18 YEARS OF AGE SHALL NOT OPERATE AN ORV  
9 PURSUANT TO THIS SECTION UNLESS THE PERSON IS IN POSSESSION OF A  
10 VALID DRIVER LICENSE OR UNDER THE DIRECT SUPERVISION OF A PARENT OR  
11 GUARDIAN AND THE PERSON HAS IN HIS OR HER IMMEDIATE POSSESSION AN  
12 ORV SAFETY CERTIFICATE ISSUED PURSUANT TO THIS PART OR A COMPARABLE  
13 ORV SAFETY CERTIFICATE ISSUED UNDER THE AUTHORITY OF ANOTHER STATE  
14 OR A PROVINCE OF CANADA. A PERSON UNDER 12 YEARS OF AGE SHALL NOT  
15 OPERATE AN ORV PURSUANT TO THIS SECTION. THE REQUIREMENTS OF THIS  
16 SUBSECTION ARE IN ADDITION TO ANY APPLICABLE REQUIREMENTS OF  
17 SECTION 81129.

18 (10) ~~(3)~~ A TOWNSHIP THAT HAS AUTHORIZED THE OPERATION OF ORVS  
19 ON A ROAD UNDER SUBSECTION (3) DOES NOT HAVE A DUTY TO MAINTAIN THE  
20 ROAD IN A CONDITION REASONABLY SAFE AND CONVENIENT FOR THE  
21 OPERATION OF ORVS. A board of county road commissioners, a county  
22 board of commissioners, and a local unit of government ~~do OR A~~  
23 MUNICIPALITY DOES not have a duty to maintain a ~~highway~~ ROAD OR  
24 STREET under ~~their respective jurisdictions~~ ITS JURISDICTION in a  
25 condition reasonably safe and convenient for the operation of ORVs,  
26 except the following ORVs:

27 (a) ORVs registered as motor vehicles as provided in the code.

1 (b) ORVs permitted by an ordinance as provided in subsection  
2 ~~(2)~~-(1).

3 (11) ~~(4)~~ Beginning October 19, 1993, a board of county road  
4 commissioners, a county board of commissioners, and a county are,  
5 and, beginning on April 25, 1995, a municipality is, immune from  
6 tort liability for injuries or damages sustained by any person  
7 arising in any way out of the operation or use of an ORV on  
8 maintained or unmaintained ~~highways~~ **ROADS, STREETS**, shoulders, and  
9 rights-of-way over which the board of county road commissioners,  
10 the county board of commissioners, or the ~~local unit of government~~  
11 **MUNICIPALITY** has jurisdiction. The immunity provided by this  
12 subsection does not apply to actions that constitute gross  
13 negligence. ~~Gross negligence is defined as~~ **AS USED IN THIS**  
14 **SUBSECTION, "GROSS NEGLIGENCE" MEANS** conduct so reckless as to  
15 demonstrate a substantial lack of concern for whether an injury  
16 results.

17 (12) **IN A COURT ACTION IN THIS STATE, IF COMPETENT EVIDENCE**  
18 **DEMONSTRATES THAT A VEHICLE THAT IS PERMITTED TO OPERATE ON A ROAD**  
19 **OR STREET PURSUANT TO THE CODE WAS IN A COLLISION WITH AN ORV**  
20 **REQUIRED TO BE OPERATED ON THE FAR RIGHT OF THE MAINTAINED PORTION**  
21 **OF A ROAD OR STREET PURSUANT TO AN ORDINANCE ADOPTED UNDER**  
22 **SUBSECTION (2), (3), OR (5), THE OPERATOR OF THE ORV SHALL BE**  
23 **CONSIDERED PRIMA FACIE NEGLIGENT.**

24 (13) **A VIOLATION OF AN ORDINANCE DESCRIBED IN THIS SECTION IS**  
25 **A MUNICIPAL CIVIL INFRACTION. THE ORDINANCE MAY PROVIDE FOR A**  
26 **MAXIMUM FINE OF NOT MORE THAN \$500.00 FOR A VIOLATION OF THE**  
27 **ORDINANCE. IN ADDITION, THE COURT SHALL ORDER THE DEFENDANT TO PAY**

1 THE COST OF REPAIRING ANY DAMAGE TO THE ENVIRONMENT, A ROAD OR  
2 STREET, OR PUBLIC PROPERTY DAMAGED AS A RESULT OF THE VIOLATION.

3 (14) THE TREASURER OF THE LOCAL UNIT OF GOVERNMENT SHALL  
4 DEPOSIT FINES COLLECTED BY THAT LOCAL UNIT OF GOVERNMENT UNDER  
5 SECTION 8379 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236,  
6 MCL 600.8379, AND SUBSECTION (13) AND DAMAGES COLLECTED  
7 UNDER SUBSECTION (13) INTO A FUND TO BE DESIGNATED AS THE "ORV  
8 FUND". THE LEGISLATIVE BODY OF THE LOCAL UNIT OF GOVERNMENT SHALL  
9 APPROPRIATE REVENUE IN THE ORV FUND AS FOLLOWS:

10 (A) FIFTY PERCENT TO THE COUNTY SHERIFF OR POLICE DEPARTMENT  
11 RESPONSIBLE FOR LAW ENFORCEMENT IN THE LOCAL UNIT OF GOVERNMENT FOR  
12 ORV ENFORCEMENT AND TRAINING.

13 (B) FIFTY PERCENT TO THE BOARD OF COUNTY ROAD COMMISSIONERS  
14 OR, IN THE CASE OF A CITY OR VILLAGE, TO THE DEPARTMENT RESPONSIBLE  
15 FOR STREET MAINTENANCE IN THE CITY OR VILLAGE, FOR REPAIRING DAMAGE  
16 TO ROADS OR STREETS AND THE ENVIRONMENT THAT MAY HAVE BEEN CAUSED  
17 BY ORVS AND FOR POSTING SIGNS INDICATING ORV SPEED LIMITS OR  
18 INDICATING WHETHER ROADS OR STREETS ARE OPEN OR CLOSED TO THE  
19 OPERATION OF ORVS UNDER THIS SECTION.

20 (15) AS USED IN THIS SECTION:

21 (A) "ELIGIBLE COUNTY" MEANS MASON, LAKE, OSCEOLA, CLARE,  
22 GLADWIN, ARENAC, OR BAY COUNTY OR A COUNTY LYING NORTH THEREOF,  
23 INCLUDING ALL OF THE COUNTIES OF THE UPPER PENINSULA.

24 (B) "LOCAL UNIT OF GOVERNMENT" MEANS A COUNTY, TOWNSHIP, OR  
25 MUNICIPALITY.

26 (C) "MUNICIPALITY" MEANS A CITY OR VILLAGE.

27 (D) "ROAD" MEANS A COUNTY PRIMARY ROAD OR COUNTY LOCAL ROAD AS

1 DESCRIBED IN SECTION 5 OF 1951 PA 51, MCL 247.655.

2 (E) "STREET" MEANS A CITY OR VILLAGE MAJOR STREET OR CITY OR  
3 VILLAGE LOCAL STREET AS DESCRIBED IN SECTION 9 OF 1951 PA 51, MCL  
4 247.659.

5 Sec. 81133. A person shall not operate an ORV:

6 (a) At a rate of speed greater than is reasonable and proper,  
7 or in a careless manner having due regard for conditions then  
8 existing.

9 (b) Unless the person and any passenger in or on the vehicle  
10 is wearing on his or her head a crash helmet and protective eyewear  
11 approved by the United States department of transportation. This  
12 subdivision does not apply if the vehicle is equipped with a roof  
13 that meets or exceeds standards for a crash helmet and the operator  
14 and each passenger is wearing a properly adjusted and fastened  
15 safety belt.

16 (c) During the hours of 1/2 hour after sunset to 1/2 hour  
17 before sunrise without displaying a lighted headlight and lighted  
18 taillight. **THE REQUIREMENTS OF THIS SUBDIVISION ARE IN ADDITION TO**  
19 **ANY APPLICABLE REQUIREMENTS OF SECTION 81131(8).**

20 (d) Unless equipped with a braking system that may be operated  
21 by hand or foot, capable of producing deceleration at 14 feet per  
22 second on level ground at a speed of 20 miles per hour; a brake  
23 light, brighter than the taillight, visible when the brake is  
24 activated to the rear of the vehicle when the vehicle is operated  
25 during the hours of 1/2 hour after sunset and 1/2 hour before  
26 sunrise; and a throttle so designed that when the pressure used to  
27 advance the throttle is removed, the engine speed will immediately

1 and automatically return to idle.

2 (e) In a state game area or state park or recreation area,  
3 except on roads, trails, or areas designated for this purpose; on  
4 state owned lands under the control of the department other than  
5 game areas, state parks, or recreational areas where the operation  
6 would be in violation of rules promulgated by the department; in a  
7 forest nursery or planting area; on public lands posted or  
8 reasonably identifiable as an area of forest reproduction, and when  
9 growing stock may be damaged; in a dedicated natural area of the  
10 department; or in any area in such a manner as to create an erosive  
11 condition, or to injure, damage, or destroy trees or growing crops.  
12 However, the department may permit an owner and guests of the owner  
13 to use an ORV within the boundaries of a state forest in order to  
14 access the owner's property.

15 (f) On the frozen surface of public waters within 100 feet of  
16 a person not in or upon a vehicle, or within 100 feet of a fishing  
17 shanty or shelter or an area that is cleared of snow for skating  
18 purposes, except at the minimum speed required to maintain  
19 controlled forward movement of the vehicle, or as may be authorized  
20 by permit in special events.

21 (g) Unless the vehicle is equipped with a spark arrester type  
22 United States forest service approved muffler, in good working  
23 order and in constant operation. Exhaust noise emission shall not  
24 exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January  
25 1, 1986, when the vehicle is under full throttle, traveling in  
26 second gear, and measured 50 feet at right angles from the vehicle  
27 path with a sound level meter ~~which~~ **THAT** meets the requirement of



1 ANSI S1.4 1983, using procedure and ancillary equipment therein  
2 described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after  
3 January 1, 1986, or that level comparable to the current sound  
4 level as provided for by the United States environmental protection  
5 agency when tested according to the provisions of the current SAE  
6 J1287, June 86 test procedure for exhaust levels of stationary  
7 motorcycles, using sound level meters and ancillary equipment  
8 therein described. A vehicle subject to this part, manufactured or  
9 assembled after December 31, 1972 and used, sold, or offered for  
10 sale in this state, shall conform to the noise emission levels  
11 established by the United States environmental protection agency  
12 under the noise control act of 1972, ~~Public Law 92-574, 86 Stat.~~  
13 ~~4234-42 USC 4901 TO 4918.~~

14 (h) Within 100 feet of a dwelling at a speed greater than the  
15 minimum required to maintain controlled forward movement of the  
16 vehicle, except on property owned or under the operator's control  
17 or on which the operator is an invited guest, or on a roadway,  
18 forest road, or forest trail maintained by or under the  
19 jurisdiction of the department, or on ~~an ORV access route as~~  
20 ~~authorized by local ordinance~~ **A ROAD OR STREET ON WHICH ORV USE IS**  
21 **AUTHORIZED PURSUANT TO SECTION 81131(2), (3), OR (5).**

22 (i) In or upon the lands of another without the written  
23 consent of the owner, ~~THE~~ owner's agent, or ~~A~~ lessee, when required  
24 by part 731. The operator of the vehicle is liable for damage to  
25 private property, including, but not limited to, damage to trees,  
26 shrubs, ~~OR~~ growing crops, ~~ex~~ injury to **OTHER** living creatures, or  
27 damage caused through vehicle operation in a manner so as to create

1 erosive or other ecological damage. ~~to private property.~~ The owner  
2 of the private property may recover from the person responsible  
3 nominal damages of not less than the amount of damage or injury.  
4 Failure to post private property or fence or otherwise enclose in a  
5 manner to exclude intruders or of the private property owner or  
6 other authorized person to personally communicate against trespass  
7 does not imply consent to ORV use.

8 (j) In an area on which public hunting is permitted during the  
9 regular November firearm deer season from 7 a.m. to 11 a.m. and  
10 from 2 p.m. to 5 p.m., except during an emergency or for law  
11 enforcement purposes, to go to and from a permanent residence or a  
12 hunting camp otherwise inaccessible by a conventional wheeled  
13 vehicle, to remove **FROM PUBLIC LAND** a deer, elk, or bear ~~from~~  
14 ~~public land which~~ **THAT** has been taken under a valid license; ~~or~~  
15 except for the conduct of necessary work functions involving land  
16 and timber survey, communication and transmission line patrol, and  
17 timber harvest operations; or **EXCEPT** on property owned or under  
18 control of the operator or on which the operator is an invited  
19 guest. A hunter removing game pursuant to this subdivision ~~shall be~~  
20 ~~allowed to~~ **MAY** leave the designated trail or forest road only to  
21 retrieve the game and shall not exceed 5 miles per hour. A vehicle  
22 registered under the code is exempt from this subdivision while  
23 operating on a public highway or public or private road capable of  
24 sustaining automobile traffic. A person holding a valid permit to  
25 hunt from a standing vehicle issued pursuant to part 401, or a  
26 person with disabilities using an ORV to access public lands for  
27 purposes of hunting or fishing through use of a designated trail or

1 forest road, is exempt from this subdivision.

2 (k) While transporting on the vehicle a bow unless unstrung or  
3 encased, or a firearm unless unloaded and securely encased, or  
4 equipped with and made inoperative by a manufactured keylocked  
5 trigger housing mechanism.

6 (l) On or across a cemetery or burial ground, or land used as  
7 an airport.

8 (m) Within 100 feet of a slide, ski, or skating area, unless  
9 the vehicle is being used for the purpose of servicing the area **OR**  
10 **IS BEING OPERATED PURSUANT TO SECTION 81131(2), (3), OR (5).**

11 (n) On an operating or nonabandoned railroad or railroad  
12 right-of-way, or public utility right-of-way, other than for the  
13 purpose of crossing at a clearly established site intended for  
14 vehicular traffic, except railroad, public utility, or law  
15 enforcement personnel while in performance of their duties, and  
16 except if the right-of-way is designated as ~~established~~ **PROVIDED**  
17 **FOR** in section 81127.

18 (o) In or upon the waters of any stream, river, bog, wetland,  
19 swamp, marsh, or quagmire except over a bridge, culvert, or similar  
20 structure.

21 (p) To hunt, pursue, worry, kill, or attempt to hunt, pursue,  
22 worry, or kill ~~a bird or~~ **AN** animal, **WHETHER** wild or domesticated.

23 (q) In a manner so as to leave behind litter or other debris.

24 (r) In a manner contrary to operating regulations on public  
25 lands.

26 (s) While transporting or possessing, in or on the vehicle,  
27 alcoholic liquor in a container that is open or uncapped or upon

1 which the seal is broken, except under either of the following  
2 circumstances:

3 (i) The container is in a trunk or compartment separate from  
4 the passenger compartment of the vehicle.

5 (ii) If the vehicle does not have a trunk or compartment  
6 separate from the passenger compartment, the container is encased  
7 or enclosed.

8 (t) While transporting any passenger in or upon an ORV unless  
9 the manufacturing standards for the vehicle make provisions for  
10 transporting passengers.

11 (u) On adjacent private land, in an area zoned residential,  
12 within 300 feet of a dwelling at a speed greater than the minimum  
13 required to maintain controlled forward movement of the vehicle  
14 except on a roadway, forest road, or forest trail maintained by or  
15 under the jurisdiction of the department, or on ~~an ORV access route~~  
16 ~~as authorized by local ordinance~~ **A ROAD OR STREET ON WHICH ORV USE**  
17 **IS AUTHORIZED PURSUANT TO SECTION 81131(2), (3), OR (5).**

18 Sec. 81147. (1) Except as otherwise provided in this part, a  
19 person who violates ~~a provision of this part~~ is guilty of a  
20 misdemeanor ~~—~~ punishable by imprisonment for not more than 90 days  
21 ~~—~~ or a fine of not less than \$50.00 or more than \$1,000.00, or  
22 both, for each violation. ~~of the part.~~

23 (2) **A PERSON WHO VIOLATES SECTION 81133(E) BY OPERATING AN ORV**  
24 **IN SUCH A MANNER AS TO CREATE AN EROSION CONDITION OR WHO VIOLATES**  
25 **SECTION 81133(I) OR (O) IS GUILTY OF A MISDEMEANOR PUNISHABLE BY**  
26 **IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT LESS THAN**  
27 **\$250.00 OR MORE THAN \$1,000.00, OR BOTH, FOR EACH VIOLATION.**

1           (3) ~~(2)~~ A person who violates ~~sections~~ **SECTION** 81105, 81107,  
2   81115, 81116, 81121, 81130, ~~and OR~~ 81133(b), (c), (d), (f), (g),  
3   (h), (j), (l), ~~and OR~~ (m) is responsible for a state civil  
4   infraction and may be ordered to pay a civil fine of not more than  
5   \$500.00.

6           (4) ~~(3)~~ A person shall not remove, deface, or destroy a sign  
7   or marker placed by the department indicating the boundaries of an  
8   ORV trail or area or that marks a route.

9           (5) ~~(4)~~ In addition to the penalties otherwise provided under  
10   this part, a court of competent jurisdiction may order a person to  
11   restore, as nearly as possible, any land, water, stream bank,  
12   streambed, or other natural or geographic formation damaged by the  
13   violation of this part to the condition it was in before the  
14   violation occurred.

15           (6) ~~(5)~~ The department or any other peace officer may impound  
16   the ORV of a person who ~~violates a provision~~ **COMMITTS A VIOLATION** of  
17   this part that is punishable as a misdemeanor or who causes damage  
18   to the particular area in which the ORV was used in the commission  
19   of the violation.

20           (7) ~~(6)~~ Upon conviction of a person for violation ~~of a~~  
21   ~~provision of this part that is punishable as a misdemeanor or any~~  
22   ~~other provision of this part that results in damage to the~~  
23   ~~particular area in which the ORV was used~~ **DESCRIBED IN SUBSECTION**  
24   (5), a court of competent jurisdiction may order ~~an~~ **THE** ORV and any  
25   personal property on the ORV seized as a result of the violation  
26   returned to the owner or, upon recommendation of the local  
27   prosecuting attorney, turned over to the department. ~~if the~~ **AN** ORV

1 and OR any other property is turned over to the department ~~they~~  
2 UNDER THIS SUBSECTION shall be disposed of in the manner provided  
3 for condemnation of property in part 16. The proceeds realized by  
4 the department under this subsection shall first be used to restore  
5 areas damaged by ORV use, with the balance to be deposited in the  
6 off-road vehicle account.

7 Enacting section 1. This amendatory act does not take effect  
8 unless House Bill No. 5559 of the 94th Legislature is enacted into  
9 law.



(APPENDIX B-1)

# SimplexGrinnell

## Financial Services

June 16, 2008

Manistee County Jail

NEW QUOTE W/LOCKS

Getting the benefits of our advanced and reliable life safety systems is just part of the total SimplexGrinnell solution. SimplexGrinnell's financing offers project protection against a jeopardized budget. Cost can be spread out over several years with periodic payments.

### Phase the Payment, Not Your Project

Leasing the SimplexGrinnell way:

- 100% Financing Solutions
- Competitive, Fixed Rate Financing
- Custom Designed Financing to Match Budgets
- Conserve Valuable Cash
- Extend Your Capital Budget
- Expand Your Credit Capacity
- Bundled Solutions - Maintenance Plans to Match Lease Terms

Lease Quote:

Int. = \$8,230.11 / Int. = \$13,301.12 / Int. = \$17,762.95

Lease Basis	\$214,350.00	\$214,350.00	\$214,350.00
Down Payment	\$75,000.00	\$75,000.00	\$75,000.00
Lease Type	\$1 Buyout	\$1 Buyout	\$1 Buyout
Lease Term	36 Months	48 Months	60 Months
Periodic Payment	Monthly	Monthly	Monthly
Payment Amount	\$49,193.37	\$38,152.78	\$31,422.59

- Two monthly payments due upon execution of signed lease agreement.
- The above pricing is subject to credit review and approval.
- The above pricing does not include applicable tax, which is based on the tax jurisdiction in which the equipment will be located.
- Purchase Order to reflect lease terms and agreement.
- This offer is based on contract execution by June 26, 2008.

Please let me know how SimplexGrinnell Financial Services can assist in structuring a finance program that meets Manistee County Jail's budget needs while maximizing its buying power.

Thank you,  
Angela

Angela Ouellet  
Financial Services Analyst  
SimplexGrinnell LP  
SG Financial Services  
978-731-8452



# SimplexGrinnell

**BE SAFE.**

2970 Walkent Drive Nw  
Grand Rapids, MI 49544  
(616) 784-7921  
FAX: (616) 784-0346  
www.simplexgrinnell.com

## SimplexGrinnell Quotation

TO:  
Estimating Department 327  
From Simplexgrinnell 327  
2970 Walkent Drive Nw  
Grand Rapids, MI 49544-1453

Project: Manistee County Jail Rev. 1  
Customer Reference:  
SimplexGrinnell Reference: 327409385  
Date: 06/03/2008  
Page 1 of 4

SimplexGrinnell is pleased to offer for your consideration this quotation for the above project.

QUANTITY	MODEL NUMBER	DESCRIPTION
<b>Manistee County Jail Rev. 1</b>		
<b>Computers &amp; Software</b>		
3	Dell Computer	Dell Computer
3	D34183-000	ELO 19" LCD Touch Monitor
1	dell	8 port Ethernet Switch
1	Enterprise	enterprise Software Charge
3	01-2217	60k tag
1	Lot	Surge Protection
<b>PLC</b>		
1	DPDE	PLC EQUIPMENT COST
1	Lot	Surge Protection
<b>Intercom</b>		
2	MAP601/M-1	TSK MAP601/M-1 Intercom Amp
2	AFD-J839A	Communications Console
2	XP2440	TSK Power Supply
2	119L-13	TSK Gooseneck Microphone
70	VPVT-4PB	INTERCOM STATION
1	Lot	Surge Protection
20	TSK-SDR-CT	MODULES
1	TSK-SD25-RAC	MODULE RACK
1	TSK-PS3064	RACK POWER SUPPLY
30	5100-9920	SINGLE CONNECTOR BLOCK
<b>Misc Equipment</b>		
4	AFD-K355A	Security Tour Key Switch
12	RS-100	Duress Receiver
5	LC-210LM	Duress Transmitter
1	lot UPS	APC UPS Main PLC & Equip
1	Lot	Surge Protection
3	APCBK500	APC BK500 UPS
<b>CJOC Services</b>		
1	DPDE	CJOC SERVICES
<b>CCTV</b>		
3	SD435-PG-E1	Spectra IV SE Series Dome cam
3	IS110-CHV22	Camclosure IS Series Mini Dome
6	IWM-GY	PELCO IWM-GY DOME WALL MOUNT

THIS QUOTATION AND ANY RESULTING CONTRACT SHALL BE SUBJECT TO THE GENERAL TERMS AND CONDITIONS ATTACHED HERETO.  
Fire, Security, Communications, Sales & Service  
Offices & Representatives in Principal Cities throughout North America

**SimplexGrinnell Quotation**

QUANTITY	MODEL NUMBER	DESCRIPTION
3	ICS110-PG	ICS100 PENDANT MT ADAPTER
11	PMCL319	19 LCD Monitor, multimode in
8	PMCL-WM2A	Dual Arm Wall Mount
	CCTV Integration II	
1	CM9700-CC1	CPU CONTROLLER FOR LARGE MATRI
1	CM9760-MXB	MATRX BAY CM9760 W/PWR SUP 120
4	CM9760-VCC	16 INPUT VIDEO CAMERA CARD
1	CM9760-VMC8	MATRX VID OUTPT-8 CRD CM97?
1	CM9760-RPM	MATRX REAR PNL BNC OUTPT-16 CM
4	CM9760-RPL	MATRX REAR PNL SNGL BAY LOOPNG
1	KBD300A	KEYBOARD, VARI-SPEED PTZ JOYST
1	KBDKIT	MATRX KYBRD CM6700/MUX WIRKIT
4	MX4016CD	MULTIPLEXER 16CH DUPLEX COLOR
	Door Locks	
10	126EMLL	Retro Locks 120V

**Total net selling price, FOB shipping point, \$214,350.00**

**Comments**

Quoted price includes listed equipment, installation, shipping charges, system commissioning and checkout and end user training.

Sales tax is not included

Included in this quote are the ten (10) door locks and installation labor, per request. Owner can decide how many and when to install these. Any remaining locks after project completion can be stored and installed when needed at no additional charge.

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# SimplexGrinnell

Financial Services

April 17, 2008

Manistee County Jail

OLD QUOTE W/O LOCKS

Getting the benefits of our advanced and reliable life safety systems is just part of the total SimplexGrinnell solution. SimplexGrinnell's financing offers project protection against a jeopardized budget. Cost can be spread out over several years with periodic payments.

***Phase the Payment, Not Your Project***

Leasing the SimplexGrinnell way:

- 100% Financing Solutions
- Competitive, Fixed Rate Financing
- Custom Designed Financing to Match Budgets
- Conserve Valuable Cash
- Extend Your Capital Budget
- Expand Your Credit Capacity
- Bundled Solutions - Maintenance Plans to Match Lease Terms

Lease Quote:

<b>Lease Basis</b>	\$189,234.00	\$189,234.00	\$189,234.00
<b>Down Payment</b>	\$75,000.00	\$75,000.00	\$75,000.00
<b>Lease Type</b>	\$1 Buyout	\$1 Buyout	\$1 Buyout
<b>Lease Term</b>	60 Months	48 Months	36 Months
<b>Periodic Payment</b>	Annual	Annual	Annual
<b>Payment Amount</b>	\$25,612.41	\$31,083.07	\$40,262.92

- One annual payment due upon execution of signed lease agreement.
- The above pricing is subject to credit review and approval.
- The above pricing does not include applicable tax, which is based on the tax jurisdiction in which the equipment will be located.
- Purchase Order to reflect lease terms and agreement.
- This offer is based on contract execution by May 17, 2008.

Please let me know how SimplexGrinnell Financial Services can assist in structuring a finance program that meets Manistee County Jail's budget needs while maximizing its buying power.

Thank you,  
Angela

Angela Ouellet  
Financial Services Analyst  
SimplexGrinnell LP  
SG Financial Services  
978 731-8452

(B-5)

**JAIL CAPITAL IMPROVEMENT NEEDS**  
**8/1/08**

1. Replace 3 heat exchangers in Jail rooftop units (estimate) = ..... \$8,000
2. Replace 2 rooftop exhaust fans (estimate) = ..... \$2,000
3. Upgrade HVAC control system (estimate) = ..... \$5,000
4. Replace 10 exterior light housings (estimate) = ..... \$1,000
5. Replace emergency generator and electrical system (estimate) = ..... \$100,000
6. Jail security system upgrade (actual quote from Simplex Grinnell) = .... \$214,350
- TOTAL = ..... \$330,350

**AVAILABLE SOURCES OF FUNDING:**

1. Jail Building Bond Fund #362. These funds must be used for jail improvements or returned to the taxpayers.  
Balance as of 7/31/08 = ..... \$66,147.51
2. Jail Expansion Fund #361. This fund receives transfers in the amount of \$100,000 in 2007/08 from the General Fund to offset revenues received from Wexford County for inmate housing. Revenue from Wexford no longer exists, however, this fund will have a balance of approximately \$104,672 at the current fiscal year end = ..... \$104,672.00
3. Capital Improvement Fund #251. This fund is estimated to have a fund balance of approximately \$175,000 at the current fiscal year end, however, not all of these funds can be used for Jail Capital Improvements.  
The County will have other needs for some of these funds = ..... \$75,000.00
- TOTAL CASH AVAILABLE = ..... \$245,819.51
- TOTAL ADDITIONAL FUNDS  
NEEDED TO COMPLETE ALL  
PROJECTS = ..... \$84,530.49

**OTHER FUNDING AVAILABLE:**

1. LEASE FINANCING THROUGH SIMPLEX GRINNELL. REQUIRES \$75,000 cash down payment.
2. USDA Rural Development Grant and/or Loan.
3. Local Revenue Sharing Grant (\$10,000?).
4. Risk Avoidance Grant through MMRMA.

SERVICE AGREEMENTS have been quoted by Simplex Grinnell for up to \$14,750 per year.

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RECOMMEND:

Jail Security System (Item #6)

\$75,000 cash down payment from the Jail Building Bond Fund and the Jail Expansion Fund. That will leave a balance in the two funds of approximately \$95,819.51. The annual payments will then be \$49,193.37 over the next three years. Almost two years would be paid from that fund, and the General Fund could budget an annual transfer of \$17,254 to make up the remainder of that payment.

Items #1 through #4

Funded through the Capital Improvement Fund.

Item #5

Request grant funding through the USDA, RAP and Local Revenue Sharing Board 9-1-1.

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**TRIAL BALANCE**  
**MANISTEE COUNTY**  
Balance As Of 07/31/2008

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PAGE 1

*Jail Bldg. Bond fund*

		---- Balance ----	
GL#	Description	Debit	Credit
362-000-001.000	CASH	8,083.43	
362-000-002.000	LIQUID ASSETS	58,064.08	
362-000-028.000	ACCOUNTS RECEIVABLE		
362-000-202.000	ACCOUNTS PAYABLE		
362-000-205.000	BONDS PAYABLE		
362-000-210.000	INTEREST PAYABLE		
362-000-214.101	DUE TO GENERAL FUND		
362-000-339.000	DEFERRED REVENUE		
362-000-390.000	FUND BALANCE		57,335.20
362-000-400.000	REVENUE CONTROL		7,484.83
362-000-432.000	CASINO PILT REVENUE		
362-000-665.000	INTEREST EARNED		1,327.48
362-000-700.000	EXPENDITURE CONTROL		
362-000-995.000	MISC. EXPENSE		
Total - All Funds		66,147.51	66,147.51

*Funds from taxes to  
pay voted Jail Bond.  
Must be spent on jail  
improvements or returned  
to the taxpayers.*

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**TRIAL BALANCE**  
**MANISTEE COUNTY**  
Balance As Of 07/31/2008

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PAGE 1

*Tail Expansion Fund*

		---- Balance ----	
GL#	Description	Debit	Credit
361-000-001.000	CASH	<del>79,672.04</del> <i>\$104,672.07</i>	
361-000-202.000	ACCOUNTS PAYABLE		
361-000-204.000	NOTES PAYABLE		
361-000-390.000	FUND BALANCE		4,672.07
361-000-699.001	TRANSFER IN - GENERAL FUND		74,999.97 <i>+ 25,000.1</i>
361-000-995.000	INTEREST EXPENSE		
Total - All Funds		79,672.04	79,672.04



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**TRIAL BALANCE**  
**MANISTEE COUNTY**  
Balance As Of 07/31/2008

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PAGE 1

*Cup. Imp. Tunnel*

		---- Balance ----	
GL#	Description	Debit	Credit
251-000-001.000	CASH	194,189.38	175,439.38
251-000-028.000	ACCOUNTS RECEIVABLE	+	
251-000-060.000	NOTES RECEIVABLE		
251-000-202.000	ACCOUNTS PAYABLE		
251-000-390.000	FUND BALANCE		172,690.65
251-000-400.000	REVENUE CONTROL - FUND BALANCE		
251-000-654.000	INMATE TELEPHONE CONTRACT		* { 3,261.75
251-000-695.000	MISC. REVENUE		1,540.00
251-000-699.001	TRANSFER IN - GENERAL FUND		56,250.00 + 18,750
251-000-969.011	MISC. RENOVATIONS	58,303.02	
251-000-969.015	PILT PAYMENTS TO COUNTY AGENCIES		
Total - All Funds		233,742.40	233,742.40

*less \$20,000 for mis. projects in  
2007/08*